

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 109

HOUSE BILL 2065

AN ACT

AMENDING SECTIONS 13-907, 13-3821, 13-3822 AND 13-3825; RELATING TO SEX OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-907, Arizona Revised Statutes, is amended to read:

13-907. Setting aside judgment of convicted person on discharge; making of application; release from disabilities; exceptions

A. Except as provided in subsection B of this section, every person convicted of a criminal offense may, upon fulfillment of the conditions of probation or sentence and discharge by the court, apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation pursuant to section 28-3304, 28-3306, 28-3307 or 28-3308, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing the provisions of section 28-3304, 28-3306, 28-3307 or 28-3308 as if the judgment of guilt had not been set aside.

B. This section does not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.

~~3. In violation of chapter 14 of this title.~~

3. FOR WHICH THE PERSON IS REQUIRED OR ORDERED BY THE COURT TO REGISTER PURSUANT TO SECTION 13-3821.

4. FOR WHICH THERE HAS BEEN A FINDING OF SEXUAL MOTIVATION PURSUANT TO SECTION 13-118.

~~4.~~ 5. In which the victim is a minor under fifteen years of age.

~~5.~~ 6. In violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

1 Sec. 2. Section 13-3821, Arizona Revised Statutes, is amended to read:
2 13-3821. Persons required to register; procedure;
3 identification card

4 A. A person who has been convicted of a violation or attempted
5 violation of any of the following offenses or who has been convicted of an
6 offense committed in another jurisdiction which if committed in this state
7 would be a violation or attempted violation of any of the following offenses
8 OR AN OFFENSE THAT WAS IN EFFECT BEFORE SEPTEMBER 1, 1978, THAT IF COMMITTED
9 ON OR AFTER SEPTEMBER 1, 1978, HAS THE SAME ELEMENTS OF AN OFFENSE LISTED IN
10 THIS SECTION shall, within ten days after the conviction or within ten days
11 after entering and remaining in any county of this state, register with the
12 sheriff of that county:

13 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
14 under eighteen years of age and the unlawful imprisonment was not committed
15 by the child's parent.

16 2. Kidnapping pursuant to section 13-1304 if the victim is under
17 eighteen years of age and the kidnapping was not committed by the child's
18 parent.

19 3. Sexual abuse pursuant to section 13-1404 if the victim is under
20 eighteen years of age.

21 4. Sexual conduct with a minor pursuant to section 13-1405.

22 5. Sexual assault pursuant to section 13-1406.

23 6. Sexual assault of a spouse pursuant to section 13-1406.01.

24 7. Molestation of a child pursuant to section 13-1410.

25 8. Continuous sexual abuse of a child pursuant to section 13-1417.

26 9. Taking a child for the purpose of prostitution pursuant to section
27 13-3206.

28 10. Child prostitution pursuant to section 13-3212.

29 11. Commercial sexual exploitation of a minor pursuant to section
30 13-3552.

31 12. Sexual exploitation of a minor pursuant to section 13-3553.

32 13. LURING A MINOR FOR SEXUAL EXPLOITATION PURSUANT TO SECTION 13-3554.

33 ~~13.~~ 14. A second or subsequent violation of indecent exposure to a
34 person under the age of fifteen years pursuant to section 13-1402, subsection
35 B.

36 ~~14.~~ 15. A second or subsequent violation of public sexual indecency
37 to a minor under the age of fifteen years pursuant to section 13-1403,
38 subsection B.

39 ~~15.~~ 16. A third or subsequent violation of indecent exposure pursuant
40 to section 13-1402.

41 ~~16.~~ 17. A third or subsequent violation of public sexual indecency
42 pursuant to section 13-1403.

43 ~~17.~~ 18. A violation of section 13-3822 or 13-3824.

44 B. Before the person is released from confinement the state department
45 of corrections in conjunction with the department of public safety and each

1 county sheriff may complete the registration of any person who was convicted
2 of a violation of any offense listed under subsection A of this section.
3 Within three days after the person's release from confinement, the state
4 department of corrections shall forward the registered person's records to
5 the department of public safety and to the sheriff of the county in which the
6 registered person intends to reside. Registration pursuant to this
7 subsection shall be consistent with subsection E of this section.

8 C. Notwithstanding subsection A of this section, the judge who
9 sentences a defendant for any violation of chapter 14 or 35.1 of this title
10 or for an offense for which there was a finding of sexual motivation pursuant
11 to section 13-118 may require the person who committed the offense to
12 register pursuant to this section.

13 D. The court may require a person who has been adjudicated delinquent
14 for an act that would constitute an offense specified in subsection A or C
15 of this section to register pursuant to this section. Any duty to register
16 under this subsection shall terminate when the person reaches the age of
17 twenty-five.

18 E. A person who has been convicted of or adjudicated delinquent and
19 WHO IS required to register in the convicting state for an act that would
20 constitute an offense specified in subsection A or C of this section and who
21 is not a resident of this state shall be required to register pursuant to
22 this section if the person is either:

23 1. Employed full time or part time in this state, with or without
24 compensation, for more than fourteen consecutive days or for an aggregate
25 period of more than thirty days in a calendar year.

26 2. Enrolled as a full-time or part-time student in any school in this
27 state for more than fourteen consecutive days or for an aggregate period of
28 more than thirty days in a calendar year. For the purposes of this
29 paragraph, "school" means an educational institution of any description,
30 public or private, wherever located in this state.

31 F. Any duty to register under subsection D or E of this section for
32 a juvenile adjudication terminates when the person reaches the age of
33 twenty-five.

34 G. THE COURT MAY ORDER THE TERMINATION OF ANY DUTY TO REGISTER UNDER
35 THIS SECTION UPON SUCCESSFUL COMPLETION OF PROBATION IF THE PERSON WAS UNDER
36 EIGHTEEN YEARS OF AGE WHEN THE OFFENSE FOR WHICH THE PERSON WAS CONVICTED OF
37 WAS COMMITTED.

38 ~~G.~~ H. At the time of registering, the person shall sign a statement
39 in writing giving such information as required by the director of the
40 department of public safety, including all names by which the person is
41 known. The sheriff shall fingerprint and photograph the person and within
42 three days thereafter shall send copies of the statement, fingerprints and
43 photographs to the criminal identification section within the department of
44 public safety and the chief of police, if any, of the place where the person
45 resides.

1 H. I. Upon the person's initial registration and every year after the
2 person's initial registration, the person shall obtain a nonoperating
3 identification license or a driver license from the motor vehicle division
4 in the department of transportation. Notwithstanding sections 28-3165 and
5 28-3171, the license shall be valid for one year from the date of issuance,
6 and the person shall submit to the department of transportation proof of the
7 person's address. The motor vehicle division shall make a copy of the
8 photograph available to the criminal identification section of the department
9 of public safety or to any law enforcement agency.

10 I. J. Except as provided in subsection E or J K of this section, the
11 clerk of the superior court in the county in which a person has been
12 convicted of a violation of any offense listed under subsection A of this
13 section, OR has been ordered to register pursuant to subsection C or D of
14 this section shall notify the sheriff in that county of the conviction within
15 ten days after entry of the judgment.

16 J. K. Within ten days after entry of judgment, a court not of record
17 shall notify the arresting law enforcement agency of an offender's conviction
18 of a violation of section 13-1402. Within ten days after receiving this
19 information, the law enforcement agency shall determine if the offender is
20 required to register pursuant to this section. If the law enforcement agency
21 determines that the offender is required to register, the law enforcement
22 agency shall provide the information required by section 13-3825 to the
23 department of public safety and shall make community notification as required
24 by law.

25 K. L. A person who is required to register pursuant to this section
26 because of a conviction for the unlawful imprisonment of a minor or the
27 kidnapping of a minor is required to register, absent additional or
28 subsequent convictions, for a period of ten years from the date that the
29 person is released from prison, jail, probation, community supervision or
30 parole and the person has fulfilled all restitution obligations.
31 Notwithstanding this subsection, a person who has a prior conviction for an
32 offense for which registration is required pursuant to this section is
33 required to register for life.

34 Sec. 3. Section 13-3822, Arizona Revised Statutes, is amended to read:

35 13-3822. Notice of moving from an address where living or
36 change of name; forwarding of information

37 A. Within ~~ten days~~ SEVENTY-TWO HOURS, EXCLUDING WEEKENDS AND LEGAL
38 HOLIDAYS, after changing MOVING FROM the person's address within a county or
39 after changing the person's name, a person required to register under the
40 provisions of this article shall inform the sheriff in PERSON AND IN writing
41 of the person's new address or new name. IF THE PERSON MOVES TO A LOCATION
42 WHICH IS NOT A RESIDENCE AND THE PERSON RECEIVES MAIL AT A POST OFFICE BOX,
43 THE PERSON SHALL NOTIFY THE SHERIFF OF THE LOCATION OF THE POST OFFICE BOX
44 AND THE POST OFFICE BOX NUMBER. Within three days after receipt of such
45 information, the sheriff shall forward it to the criminal identification

1 section within the department of public safety and the chief of police, if
2 any, of the place from which the person moves, and shall forward a copy of
3 the statement, fingerprints and photograph of such person to the chief of
4 police, if any, of the place to which the person has moved.

5 B. Within seventy-two hours after a person moves from a county in
6 which the person is registered, the person shall notify in writing the
7 sheriff of the county from which the person moves. If the person is subject
8 to community notification requirements, the sheriff of the county from which
9 the person moves shall advise the local law enforcement agency of the county
10 to which the person moves of the move. If the person moves out of this
11 state, the sheriff of the county from which the person moves shall advise the
12 local law enforcement agency in the jurisdiction to which the person moves.
13 The local law enforcement agency shall contact the department of public
14 safety following ten days after being notified to determine if the person has
15 reregistered. If the person has not reregistered, the local law enforcement
16 agency shall notify the local law enforcement agency in the county in which
17 the person last resided. The local law enforcement agency in the county in
18 which the person last resided shall conduct an investigation and shall submit
19 a report to the appropriate county attorney.

20 Sec. 4. Section 13-3825, Arizona Revised Statutes, is amended to read:

21 13-3825. Community notification

22 A. Within seventy-two hours after a person who was convicted is
23 released from confinement or who was accepted under the interstate compact
24 for the supervision of parolees and probationers and has arrived in this
25 state, the agency that had custody or responsibility for supervision of the
26 person who was convicted of committing an offense for which the person was
27 required OR ORDERED BY THE COURT to register pursuant to section 13-3821 or
28 that has accepted supervision under the interstate compact for the
29 supervision of parolees and probationers shall provide all of the following
30 information to the department of public safety by entering all of the
31 following information into the sex offender profile and notification data
32 base:

- 33 1. The offender's identifying information.
- 34 2. A risk assessment of the offender.
- 35 3. The offender's date of release from confinement or, if the offender
36 is sentenced to probation without jail time, the date the sentence is
37 imposed.

38 B. Following the tenth day after the person is released from
39 confinement or, if the offender is sentenced to probation without jail time,
40 the date the sentence is imposed, the department of public safety shall
41 cross-reference the information the department receives pursuant to
42 subsection A of this section with the sex offender registry to determine if
43 the person is registered as required by OR ORDERED BY THE COURT PURSUANT TO
44 section 13-3821. If the person is not registered, the department of public
45 safety shall notify the county attorney in the county in which the person was

1 convicted or the interstate compact administrator for this state. If the
2 person is registered, the department of public safety shall forward the
3 information the department received pursuant to subsection A of this section
4 to the sheriff in the county where the person is registered.

5 C. After receiving the information pursuant to subsection B of this
6 section, the sheriff shall forward the information to the chief law
7 enforcement officer of the community in which the person resides. After
8 reviewing the information received and any other information available to the
9 local law enforcement agency, the local law enforcement agency shall
10 categorize each offender and place each offender into a notification level.
11 Within forty-five days, the local law enforcement agency shall notify the
12 community of the offender's presence in the community pursuant to the
13 guidelines established by the community notification guidelines committee.
14 If the community does not have a chief law enforcement officer, the sheriff
15 shall perform the duties of the local law enforcement agency.

16 D. If a person who has been convicted of an offense in another state
17 registers pursuant to section 13-3821, subsection A, the sheriff in the
18 county in which the person registers shall forward the information to the
19 chief law enforcement officer of the community in which the person resides.
20 The chief law enforcement officer shall contact the state in which the person
21 was convicted and shall obtain information regarding the person. After
22 reviewing the information received and any other information available, the
23 local law enforcement agency shall complete the risk assessment, shall
24 categorize the person, shall place the person into a notification level and
25 shall enter the information into the computer system. If the law enforcement
26 agency is unable to obtain sufficient information to complete the sex
27 offender community notification risk assessment, the agency shall categorize
28 the offender as a level two offender. Within forty-five days, the local law
29 enforcement agency shall notify the community of the person's presence in the
30 community pursuant to the guidelines established by the community
31 notification guidelines committee. If the community does not have a chief
32 law enforcement officer, the sheriff shall perform the duties of the local
33 law enforcement agency.

34 E. On receiving notice pursuant to section 13-3822 that a person who
35 is required to register has changed MOVED FROM the person's address, the
36 chief law enforcement officer of the community to which the person has
37 relocated may notify that community of the person's relocation to the
38 community, pursuant to subsection C of this section. If the community does
39 not have a local law enforcement agency, the sheriff of the county to which
40 the person has relocated shall notify the community of the person's
41 relocation.

42 F. In cooperation with the county probation department or the state
43 department of corrections, a law enforcement agency may delegate all or part
44 of the notification process for offenders on community supervision to the

1 county probation department or to the state department of corrections, as
2 appropriate.

3 G. This section does not prohibit law enforcement officers from giving
4 a community notice of any circumstances or persons that pose a danger to the
5 community under circumstances that are not provided for under this section.

6 H. This section does not apply to persons subject to the registration
7 requirements in section 13-3821 as a result of offenses adjudicated by a
8 juvenile court UNLESS ORDERED BY THE COURT.

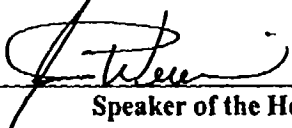
APPROVED BY THE GOVERNOR APRIL 11, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2001.

Passed the House March 07, 2001,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting


Speaker of the House

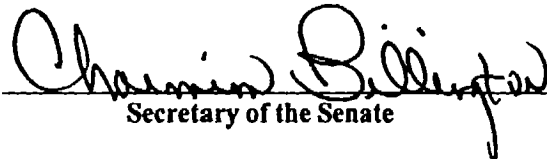

Chief Clerk of the House

Passed the Senate April 2, 2001,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2065

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 5, 2001,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Jake Flake
Speaker of the House
Norman L. Moore
Pro Tempore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of April, 2001,

at 9:32 o'clock A M.

Sandra Ramirez
Secretary to the Governor

Approved this 11 day of

April, 2001,

at 8:28 o'clock P M.

Jane V. Hull
Governor of Arizona

H.B. 2065

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12 day of April, 2001,

at 3:30 o'clock P M.

Betsy Bayless
Secretary of State